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February 20, 2003

Chief of Records  
Attn: Request for Comments  
Office of Foreign Assets Control  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

**Re: Comments on Economic Sanctions Enforcement Guidelines**

Dear Office of Foreign Assets Control:

We hereby submit comments regarding the Economic Sanctions Enforcement Guidelines. Specifically, we would like OFAC to consider adding four extra mitigating factors to the ones already published. We believe that there exist public policy reasons that warrant the addition of these additional mitigating factors.

First, we believe that OFAC should consider as a mitigating factor situations where a good faith and reasonable interpretation of the law and applicable regulations is made either prior to the submission of a license application or while one is pending but, subsequently, OFAC renders a position contrary to such an interpretation. Because the law and regulations may contain gray areas regarding transactions with the embargoed countries, situations may arise that could warrant different reasonable interpretations, all of which appear to be in full compliance with the letter of the law. When such good faith and reasonable interpretations are made, but

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OFAC disagrees with such an interpretation and decides to assess a penalty, such good faith and reasonable interpretations should be taken into account in mitigation of any penalties assessed. If OFAC agrees that this is warranted, this mitigating factor should be added to the list of mitigating factors in OFAC's enforcement guidelines.

Second, an additional mitigating factor should be added to the existing list in the enforcement guidelines to include the actions of non-profit, scientific and humanitarian institutions. Such organizations do not, generally, pose a threat to the national security of the United States, nor are they engaged in commerce with the expectation of financial reward. Instead, their activities generally involve individuals and institutions in the countries subject to the embargo by exposing them to ideas, services and products that fashion a link to influential sectors or help deal with humanitarian crises. Moreover, they usually do so without strengthening any type of political or military regime. In this regard, such organizations are actually aiding the United States in the execution of its foreign policy toward the embargoed countries by fostering change in those societies.

In addition, by their very nature, such organizations do not have the financial resources to pay the average amounts assessed in penalty situations and, without further mitigation, any penalty assessment could cripple or halt the otherwise benevolent activities these organizations undertake in non-embargoed countries, including the United States. In light of this, OFAC

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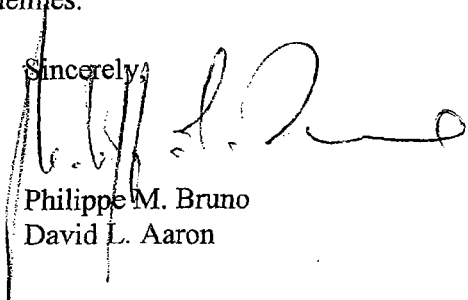
should formally add the activities of non-profit, scientific and humanitarian organizations as a mitigating factor to the list in its enforcement guidelines.

Third, OFAC should consider a mitigating factor situations in which no public position by OFAC has been taken. For example, if OFAC determines that there is a violation in a novel situation based on a new technology which OFAC has not yet addressed as being prohibited in any public documents, then any penalty should be mitigated as those involved could have no knowledge of its prohibited nature. If OFAC agrees that this is warranted, this mitigating factor should be added to the list of mitigating factors in OFAC's enforcement guidelines.

Fourth, OFAC should mitigate penalties in situations where a violation has been committed while acting in good faith on the assumption that the activity was allowed by a right protected under the U.S. Constitution.

For the foregoing reasons, we respectfully request that OFAC consider the addition of these mitigating factors to its enforcement guidelines.

Sincerely,



Philippe M. Bruno  
David L. Aaron